

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION

ASHWOOD JANITORIAL SERVICES,
CAROLYN ASHWOOD, Individually and
as Owner, and NATHAN ASHWOOD,
Individually and as General Manager

PLAINTIFFS

V.

NO. 2:08-CV-00038

W.W. CONTRACTOR, INC., MATTHEW
FRIESSER, Vice President of W.W.
Contractor, Inc., GENERAL SERVICES
ADMINISTRATION and CAMRON DOSS, In
his Official Capacity as Agent and
Contracting Officer on Behalf of
General Services Administration

DEFENDANTS

O R D E R

Currently before the Court is Defendants' Motion to Dismiss (Doc. 3). No answer to the Motion is before the Court.

Defendants' Motion to Dismiss was made before the case was removed to federal court and is partially based on the Arkansas Rules of Civil Procedure, which are no longer applicable. For a breach of contract claim in Arkansas, the Plaintiff must plead the existence of a contract obligating defendant to the plaintiff, breach by the defendant, and damages suffered by the plaintiff because of the breach. See *Rabalaias v. Barnett*, 683 S.W.2d 919, 921 (Ark. 1985). Pleading those elements satisfies the federal pleading requirements. See *Caldwell v. Guardian Trust Co.*, 26 F.2d 218, 223 (8th Cir. 1928). In ruling on a motion to dismiss, the district court must accept the allegations contained in the complaint as true, and all allegations must be viewed in the light

most favorable to plaintiffs. *Stodghill v. Wellston Sch. Dist.*, 512 F.3d 472, 476 (8th Cir. 2008). Plaintiffs have pled the existence of a contract that obligates Defendants, Plaintiffs' performance of the contract, a breach of the contract by the Defendants, and damages suffered by the Plaintiffs as a result of the breach. Therefore, the Plaintiffs' have met the pleading requirements for a Breach of Contract action. Defendants' Motion to Dismiss is **DENIED**.

Plaintiffs have ten days from the date of this order to respond to Defendants' Counterclaim (Doc. 18) or a default will be issued. Plaintiffs' also have ten days from the date of this order to respond to Counterclaimants' Motion for Summary Judgment.

IT IS SO ORDERED this 17th day of September, 2008.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge